

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ODILMA BALLESTEROS,

Plaintiff,

v.

KILOLO KIJAKAZI,  
*Acting Commissioner of Social Security,*

Defendant.

No. 22-CV-3198 (KMK)

ORDER ADOPTING  
REPORT & RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Odilma Ballesteros (“Plaintiff”) brings this Action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the final decision of the Commissioner of Social Security (the “Commissioner” or “Defendant”), which denied her application for disability insurance benefits and/or supplemental security income benefits. (Dkt. No. 1.) Plaintiff moved for judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure. (Dkt. No. 14.) The Commissioner subsequently filed a cross motion for judgment on the pleadings. (Dkt. No. 16.)

After reassignment, the case was referred to the Honorable Gary R. Jones (“Judge Jones”) on May 17, 2023. (See Dkt. (minute entry for March 17, 2023).) On May 11, 2023, Judge Jones issued a Report and Recommendation (“R&R”) recommending that the Plaintiff’s Motion be granted, and the Commissioner’s Motion be denied. (Dkt. No. 19.) The Parties did not file any objections to the R&R.<sup>1</sup>

When no objections are filed, the Court reviews an R&R on a dispositive motion for

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<sup>1</sup> Judge Jones provided notice that, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to the R&R were due within fourteen days after being served with a copy. (R&R 29.)

clear error. *See Bickram v. Comm'r of Soc. Sec.*, No. 18-CV-1160, 2021 WL 2665876, at \*1 (S.D.N.Y. June 29, 2021); *Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010).

The Court has reviewed the R&R and finding no substantive error, clear or otherwise, adopts the R&R.

Accordingly, it is hereby:

ORDERED that the Report and Recommendation, dated May 11, 2023, is ADOPTED in its entirety.

ORDERED that the Plaintiff's Motion to Remand and/or for Judgment on the Pleadings is granted.

ORDERED that the Defendant's Cross Motion for Judgment on the Pleadings is denied.

ORDERED that judgment be entered in favor of the Plaintiff, and that this matter be remanded to the Commissioner for calculation of benefits.

The Clerk of the Court is respectfully requested to terminate the pending Motions, (Dkt. Nos. 14, 16), and close the case.

SO ORDERED.

DATED: June 9, 2023  
White Plains, New York



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KENNETH M. KARAS  
UNITED STATES DISTRICT JUDGE